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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOE LENZIE TURNER,  
  
                                Petitioner,  
  
                v.  
  
FELICIA PONCE, Warden,  
  
                                Respondent.

No. 2:15-cv-01758-GGH

ORDER

Petitioner has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, and paid the requisite filing fee. On October 7, 2015, the court ordered petitioner to show cause why the petition should not be dismissed for failure to show he is entitled to relief. ECF No. 7. The court explained that the petition seemed to allege petitioner’s custody classification score was miscalculated, “adversely affect[ing] [his] custody level, housing, work assignments, level of supervision[,] and eligibility for desirable activities.” Id. at 2 (citing ECF No. 1 at Exhibit B). Such claims do not entitle petitioner to relief under § 2241 because they do not challenge the fact or duration of confinement. See, e.g., Preiser v. Rodriguez, 411 U.S. 475, 485 (1973). On November 2, 2015, petitioner submitted a response to the court’s order to show cause explaining that his petition is, in fact, meant to challenge the duration of his confinement. ECF

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1 No. 8.<sup>1</sup> Petitioner contends that a prior state court conviction was improperly considered a prior  
2 sentence for purposes of calculating his criminal history points, delaying his projected release  
3 date. Id. at 1–2, 9–11.

4 Since petitioner may be entitled to the requested relief if the claimed violation of  
5 constitutional rights is proved, respondent will be directed to file an answer or a motion to  
6 dismiss.

7 In accordance with the above, IT IS HEREBY ORDERED that:

8 1. The court's October 7, 2015, order to show cause, ECF No. 7, is hereby discharged.

9 2. Respondent is directed to file an answer or a motion to dismiss within sixty (60) days  
10 from the date of this order. If an answer is filed, respondent shall include with the answer any  
11 and all transcripts or other documents relevant to the determination of the issues presented in the  
12 application.

13 3. Petitioner's traverse, if any, is due on or before thirty (30) days from the date  
14 respondent's answer is filed; an opposition to a motion to dismiss is due within thirty days of  
15 service of the motion to dismiss.

16 Dated: November 10, 2015

17 /s/ Gregory G. Hollows

18 UNITED STATES MAGISTRATE JUDGE  
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24 /GGH17;turn1758.100  
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28 <sup>1</sup> Petitioner submitted a second response on November 5, 2015, that mirrors the first. ECF No. 9.